



DATA PROTECTION POLICY

TOWN COUNCIL MEETING

REPORT 43/16

11 JULY 2016

The purpose of this paper is to ask Members to adopt an updated Data Protection Policy.

No. DETAIL

1) BACKGROUND

- a) With the extended use of digital technology in the Town Council's work an up-to-date, comprehensive and authoritative Data Protection Policy is essential.
 - b) The extension funding for the Breaking New Ground element of the Operational Plan produced during the Town Council's involvement in the Our Place Programme provided the opportunity for our Economic Development Officer to commission such a policy from Anthony Collins Solicitors.
 - c) A copy of that Policy is attached to this Report.
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2) RECOMMENDATION

Members are recommended to consider the Policy document and adopt it to apply to all the Town Council's work.



VENTNOR TOWN
COUNCIL
DATA PROTECTION
POLICY

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1. POLICY STATEMENT

- 1.1 This policy, together with our website Terms and Conditions <http://www.ventnortowncouncil.org.uk/> and our Conflicts of Interests Policy (available as required), email strategy forums and other digital applications relating to Ventnor Town Council, sets out the basis upon which any personal data we collect from you, or that you provide to us, will be processed by us.

Please read the following carefully to understand our views and practices regarding your personal data and how we will treat it.

Website and digital media users: By visiting the Ventnor Town Council website at <http://www.ventnortowncouncil.org.uk/> or using any of our digital media platforms, you are accepting and consenting to the practices described in this policy.

- 1.2 Ventnor Town Council is a public authority which exists to serve the inhabitants of Ventnor, Isle of Wight. We are registered as a data controller with the Information Commissioner's Office (ICO) and process the personal information (personal data) of individuals in accordance with our constitution and in accordance with the Data Protection Act 1998 (DPA), to enable us to:
- 1.2.1 Provide local services in accordance with our statutory powers and duties;
 - 1.2.2 To promote campaigns, public relations and fundraising
 - 1.2.3 To conduct research;
 - 1.2.4 To support and manage our staff; and
 - 1.2.5 To maintain our own accounts and records.
- 1.3 Everyone has rights with regard to the way in which their personal data is handled. In line with its values, we are committed to good practice in the handling of personal and confidential information and to ensuring that such information is stored securely and is processed in accordance with the law.

2. PURPOSE OF THIS POLICY

- 2.1 We process the personal information of individuals in electronic and paper form. In some cases, it is very sensitive information about individuals' finances and personal circumstances. In addition, we hold lots of less sensitive information such as names and contact details of business and other contacts, suppliers and current, past and prospective staff. We may also receive other personal information from the above or other sources.
- 2.2 The Council is aware that individuals can be harmed if their personal information is misused, is inaccurate, or if it gets into the wrong hands as a result of poor security or through careless disclosures. We are committed to protecting personal data and information from unauthorised disclosure and ensuring its accuracy.
- 2.3 The purpose of this policy is to set out what measures we are committed to taking, as an organisation and as individual members of staff, to ensure we comply with the relevant legislation including, but not limited to;
- 2.3.1 The Data Protection Act 1998 (DPA);
 - 2.3.2 The Privacy and Electronic Communications (EC Directive) Regulations 2003 (PECR);
 - 2.3.3 The Freedom of Information Act 2000;
 - 2.3.4 The Computer Misuse Act 1990 (CMA); and

2.3.5 The common law Duty of Confidentiality.

2.4 Breaches of data security or confidentiality are serious incidents. If they occur, they will be investigated fully and actively managed to ensure that any breach is as limited as possible.

3. DEVELOPMENT OF THIS POLICY

3.1 This policy sets out the legal rules which apply whenever we obtain, store or use personal data.

3.2 Ventnor Town Council is responsible for ensuring compliance with the DPA, dealing with data security breaches and with the development of this policy. Any questions about the operation of this policy or any concerns that the policy has not been followed should be referred in the first instance to the Ventnor Town Clerk – email available from the Ventnor Town Council website. The Ventnor Town Clerk will;

3.2.1 Keep the content and effectiveness of this policy under review;

3.2.2 Oversee the compliance with the policy;

3.2.3 Keep a record of all data security incidents or breaches and investigate in appropriate detail;

3.2.4 Provide or arrange training and guidance for staff; and

3.2.5 Act as our nominated contact with the ICO.

3.3 From time to time we may need to make changes to this policy or guidance in line with current operational practices and/or legislation

3.4 Any questions, ideas or concerns about the operation of this policy or recommendations for additions or amendments should be referred in the first instance to the Ventnor Town Clerk.

4. TRAINING AND GUIDANCE

The Council will provide general training at least annually for all staff to raise awareness and outline the law. We may also issue guidance or instructions from time to time. All council officers must set aside time for themselves and their teams to look together at the implications for their work.

5. HOW THIS POLICY APPLIES TO YOU

5.1 **As an employee:** You are required to comply with this policy under your employment or worker contract. If you find that you have breached the policy it is important that you contact the Ventnor Town Clerk immediately so that they can assess the impact of the breach.

5.2 **As an appointed data processor:** if you are appointed by us as a data processor you are required to comply with this policy under your contract with us. Any breach of the policy will be taken seriously and could lead to contract enforcement action or termination of the contract.

5.3 **As another data subject (see definition at 6.2 below):** We will use your personal information in accordance with this policy.

If you are unsure about whether anything you propose to do might breach this policy you must speak first with the Ventnor Town Clerk.

6. DEFINITION OF DATA PROTECTION TERMS

The following terms are used throughout this policy and bear their legal meaning as set out within the Data Protection Act 1998. The DPA definitions are further explained below for the sake of clarity:

- 6.1 **Data** is information which is stored electronically, on a computer, or in structured paper-based filing systems, such that it would be possible to obtain the details relating to a named individual reasonably quickly.
- 6.2 **Data Subjects** include all living individuals about whom we hold or otherwise process personal data. A data subject need not be a UK national or resident. All data subjects have legal rights in relation to their personal information. Data subjects for whom we are likely to hold personal data include;
- 6.2.1 Our employees;
 - 6.2.2 Elected representatives;
 - 6.2.3 The residents of Ventnor;
 - 6.2.4 Advisers, consultants and other professional experts;
 - 6.2.5 Business or other contacts, agents, contractors and suppliers;
 - 6.2.6 Other individuals who may participate in the Council's 'Breaking New Ground' email forums; and
 - 6.2.7 Visitors to our website.

Note that where any third party processes personal data on our behalf (and under our instructions) they may also be data processors – see 6.5 below.

- 6.3 **Personal data** means data relating to a living individual who can be identified from that data (or from that data and other information in our possession). Personal data can be factual (for example, a name, address or date of birth) or it can be an opinion about that person, their actions and behaviour.

We process personal data relevant to the reasons set out at 1.1 above. These items of information may include;

- 6.3.1 Personal details;
 - 6.3.2 Family and relative details;
 - 6.3.3 Lifestyle and social circumstances;
 - 6.3.4 Financial and operational accounting details;
 - 6.3.5 Employment and employability details;
 - 6.3.6 Education and training details; and
 - 6.3.7 Information regarding services provided.
- 6.4 **Data controllers** are the organisations (including their staff) which determine the purposes for which, and the manner in which, any personal data is processed. They are responsible for establishing practices and policies in line with the Act. We are the data controller of all personal data used in our business for our own commercial purposes. Our own staff will also be data subjects under the DPA.
- 6.5 **Data processors** include any individuals or organisations, which process personal data on our behalf and on our instructions e.g. an external organisation which provides secure waste disposal for us. This definition will include the data processors' own staff (note that staff of data processors may also be data subjects).

- 6.6 **Processing** is very widely defined indeed and includes any activity that involves some kind of use of the data. It includes obtaining, recording or holding the data, or carrying out any operation or set of operations on the data including organising, amending, retrieving, using, disclosing, erasing or destroying it. Processing can also include transferring personal data to third parties, listening to a recorded message (e.g. on voicemail) or viewing personal data on a screen or in a paper document which forms part of a structured filing system. Viewing of clear, moving or stills images of living individuals is also a processing activity.
- 6.7 **Sensitive personal data** includes information about a person's;
- 6.7.1 Racial or ethnic origin;
 - 6.7.2 Political opinions;
 - 6.7.3 Religious or similar beliefs;
 - 6.7.4 Trade union membership;
 - 6.7.5 Physical or mental health or condition;
 - 6.7.6 Sexual life; and
 - 6.7.7 About the commission of, or proceedings for, any offence committed or alleged to have been committed by that person, the disposal of such proceedings or the sentence of any court in such proceedings.

Sensitive personal data can only be processed under strict conditions, including your explicit consent (although other alternative conditions can apply in limited, very specific circumstances).

7. DATA PROTECTION PRINCIPLES

Anyone processing personal data must comply with the DPA's eight enforceable Principles of good practice. These provide that personal data must be;

- 7.1.1 Processed fairly and lawfully and in accordance with a legal ground for processing provided in the DPA;
- 7.1.2 Processed for limited purposes and in an appropriate way;
- 7.1.3 Adequate, relevant and not excessive for the purpose;
- 7.1.4 Accurate;
- 7.1.5 Not kept longer than necessary for the purpose;
- 7.1.6 Processed in line with your rights;
- 7.1.7 Secure; and
- 7.1.8 Not transferred to people or organisations situated in countries without adequate protection.

8. FAIR AND LAWFUL PROCESSING

- 8.1 The purpose of the DPA is to ensure that the personal data of individuals is processed fairly and without adversely affecting the rights of those individuals.
- 8.2 For personal data to be processed lawfully, they must be processed on the basis of one of the legal grounds set out in the Act.

These include, but are not limited to;

- 8.2.1 The data subject's consent to the processing;
- 8.2.2 That the processing is necessary for the performance of a contract with the you;
- 8.2.3 That the processing is necessary for the purposes of compliance with a legal obligation to which the data controller is subject;

- 8.2.4 That the processing is necessary for administering justice, or for exercising statutory, governmental or other public functions; and
- 8.2.5 The processing being carried out in accordance with the legitimate interest of the data controller or the party to whom the data is disclosed.

8.3 When sensitive personal data is being processed, additional conditions must be met. When processing personal data as data controllers in the course of our business, we will ensure that those requirements are met.

9. **PROCESSING FOR LIMITED PURPOSES**

9.1 In the course of our business, we may collect and process personal data. This may include data we receive directly from you (for example, by completing forms or by corresponding with us via our website or by mail, phone, email or otherwise) and data we receive from other sources (including, for example, business partners, sub-contractors in technical, payment and delivery services, credit reference agencies and others).

9.2 We will only process personal data for the specific purposes set out in our Privacy Notices and ICO Notification or for any other purposes specifically permitted by the Act. We will notify those purposes to you when we first collect the data or as soon as possible thereafter.

10. **FAIR PROCESSING: PRIVACY NOTICES**

- 10.1 Where we collect personal data directly from you, we will inform you of;
- 10.1.1 Our identity as data controller;
 - 10.1.2 The purpose or purposes for which we intend to process your personal data;
 - 10.1.3 The types of (or where appropriate, the names of) third parties, if any, with which we will share or to which we will disclose your personal data; and
 - 10.1.4 Your rights as data subjects.
- 10.2 If we receive personal data about you from other sources, we will notify you of this as soon as possible thereafter, unless a legal exemption under the DPA applies.

11. **USE OF OUR WEBSITE, EMAIL FORUMS OR DIGITAL MEDIA PLATFORMS**

11.1 Information you give us

You may give us information about you when you contact us through the Ventnor Town Council website, email forums or digital media platforms or by corresponding with us by phone, e-mail or otherwise. The information you give us may include your name, address, e-mail address and phone number, financial and credit card information, personal description and photograph.

11.2 Information we collect about you:

- 11.2.1 With regard to each of your visits to our website we may automatically collect technical information, including the Internet protocol (IP) address used to connect your computer to the Internet, your login information, browser type and version, time zone setting, browser plug-in types and versions, operating system and platform.
- 11.2.2 We do not set cookies on your computer to track your movements but we may collect information about your visit, including the full Uniform Resource Locators (URL) clickstream to, through and from our website or email forums

or digital applications (that may include date and time); products and services you viewed or searched for; page response times, download errors, length of visits to certain pages, page interaction information (such as scrolling, clicks, and mouse-overs), and methods used to browse away from the page and any phone number used to call our customer service number.

- 11.3 We use the information which you provide to us via our website in the following ways;
- 11.3.1 To carry out our obligations arising from any contracts entered into between you and us and to provide you with the information and services that you request from us;
 - 11.3.2 To provide you, or permit selected third parties to provide you, with information about the work of Ventnor Town Council or services we feel may interest you, where you have indicated your consent to such contact;
 - 11.3.3 To notify you about changes to our service; and
 - 11.3.4 To ensure that content from our site is presented in the most effective manner for you and for your computer.
- 11.4 We use the Information we collect about you from our website in the following ways;
- 11.4.1 To administer our site and for internal operations, including troubleshooting, data analysis, testing, research, statistical and survey purposes;
 - 11.4.2 To improve our site to ensure that content is presented in the most effective manner for you and for your computer;
 - 11.4.3 To allow you to participate in interactive features of our service, where these are available to you;
 - 11.4.4 As part of our efforts to keep our site safe and secure;
 - 11.4.5 To measure or understand the effectiveness of advertising we serve to you and others, and to deliver relevant advertising to you; and
 - 11.4.6 To make suggestions and recommendations to you and other users of our site about goods or services that may interest you or them.

12. **ADEQUATE, RELEVANT AND NON-EXCESSIVE PROCESSING**

We will only collect personal data to the extent that it is required for the specific purpose notified to you.

13. **ACCURATE DATA**

We will ensure that personal data we hold is accurate and kept up to date. We will check the accuracy of any personal data at the point of collection and at regular intervals afterwards. We will take all reasonable steps to destroy or amend inaccurate or out-of-date data.

14. **TIMELY PROCESSING**

We will not keep personal data longer than is necessary for the purpose or purposes for which they were collected. We will take all reasonable steps to destroy, or erase from our systems, all data which is no longer required.

15. **PROCESSING IN LINE WITH YOUR RIGHTS AS DATA SUBJECT**

We will process all personal data in line with your rights, in particular your right to;

- 15.1.1 Request access to any personal data held about you by us;
- 15.1.2 Prevent the processing of your personal data for direct-marketing purposes;

- 15.1.3 Ask to have inaccurate personal data amended; and
- 15.1.4 Prevent processing, in certain circumstances that is likely to cause damage or distress to you or anyone else.

16. DEALING WITH SUBJECT ACCESS REQUESTS

- 16.1 When a formal request for information we hold about you is required. This must be made in writing, by post, or by email. Employees who receive a written request should forward it to the Ventnor Town Clerk immediately.
- 16.2 You should send a cheque for the statutory fee of £10 to Ventnor Town Council and mark your request, "Subject Access Request under the Data Protection Act 1998". The nature and scope of the information requested should be made clear in the letter or email.

Note: the DPA does not allow us to disclose the personal data of any third parties unless we have their consent, or there are other legal grounds to do so under the DPA.

- 16.3 We will provide an acknowledgement of your request and provide the information requested (unless a legal exemption under the DPA applies) within the statutory period for response under the DPA. This is currently 40 calendar days.
- 16.4 You should be aware that the statutory period for response to any subject access request does not commence until we are in receipt of the above fee and we are in possession of all information needed to enable us to locate the specific personal data requested or to verify the identity of the requester. Where we are unclear on either of the former, we may ask you to provide further information to allow us to locate the information requested or to verify your identity. The statutory time period for response will not commence until we are in receipt of any such further information needed by us.
- 16.5 When receiving telephone enquiries, we will only disclose personal data we hold on our systems the caller's identity has been verified to make sure that information is only given to a person who is entitled to it. We will suggest that the caller put their request in writing if we are unable to verify the caller's identity.

17. DATA SECURITY

- 17.1 We will process all personal data we hold in accordance with our Data Security Policy **OR** take appropriate security measures against unlawful or unauthorised processing of personal data, and against the accidental loss of, or damage to, personal data.
- 17.2 We will put in place procedures and technologies to maintain the security of all personal data from the point of collection to the point of destruction. Personal data will only be transferred to a data processor if they agree to comply with those procedures and policies, or if they implement adequate security measures.
- 17.3 We will maintain data security by protecting the confidentiality, integrity and availability of the personal data, defined as follows:
 - 17.3.1 **Confidentiality** means that only people who are authorised to use the data can access it.

- 17.3.2 **Integrity** means that personal data should be accurate and suitable for the purpose for which it is processed, and protected from being damaged or corrupted.
- 17.3.3 **Availability** means that we will restrict access to personal data held by us, and will protect it from being unexpectedly lost or unavailable to us. However, we will ensure that authorised users should be able to access the data if they need it for authorised purposes.

18. **TRANSFERRING PERSONAL DATA TO A COUNTRY OUTSIDE THE EEA**

We may transfer personal data overseas but this will only be shared within the European Economic Area (EEA).

19. **DISCLOSURE AND SHARING OF PERSONAL INFORMATION**

- 19.1 We may share your information with selected third parties including;
 - 19.1.1 Business partners, suppliers and sub-contractors for the performance of any contract we enter into with them or you;
 - 19.1.2 Analytics and search engine providers that assist us in the improvement and optimisation of our site; and
 - 19.1.3 Our accountants and auditors for audit purposes.
- 19.2 We may also disclose your personal information to third parties if Ventnor Town Council or all of its assets are acquired by any other body which substantially performs any of the functions that previously had been performed by Ventnor Town Council, in which case personal data held by it about its customers will be one of the transferred assets.
- 19.3 In all cases, we will always process your personal data securely and in accordance with our obligations under the DPA, and in particular, the ICO's statutory [DATA SHARING CODE OF PRACTICE](#). We will only ever disclose your personal data where there is a legal ground to do so, including your consent or in circumstances where;
 - 19.3.1 We are under a duty to disclose or share your personal data in order to comply with any legal obligation;
 - 19.3.2 We need to enforce our website Terms and Conditions or if we need to protect our rights, property, or safety of our employees, volunteers, contractors or others. This includes exchanging information for the purposes of the prevention or detection of crime or to protect individuals from harm.

20. **CHANGES TO THIS POLICY**

We reserve the right to change this policy at any time. Where appropriate, we will notify you of those changes by mail or by email.